

TRANSLATION

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference Y04S013PCT	FOR FURTHER ACTION		See Form PCT/IPEA/416
International application No. PCT/JP2004/012834	International filing date (<i>day/month/year</i>) 03.09.2004	Priority date (<i>day/month/year</i>) 12.02.2004	
International Patent Classification (IPC) or national classification and IPC A23L1/305 (2006.01), A23J3/04 (2006.01), A23L1/327 (2006.01)			
Applicant NAKAJIMA, Shigeru			

<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input checked="" type="checkbox"/> (<i>sent to the applicant and to the International Bureau</i>) a total of 1 sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input checked="" type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>																								
<p>4. This report contains indications relating to the following items:</p> <table> <tbody> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. I</td> <td>Basis of the report</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. II</td> <td>Priority</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. III</td> <td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. IV</td> <td>Lack of unity of invention</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. V</td> <td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VI</td> <td>Certain documents cited</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VII</td> <td>Certain defects in the international application</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VIII</td> <td>Certain observations on the international application</td> </tr> </tbody> </table>	<input checked="" type="checkbox"/>	Box No. I	Basis of the report	<input type="checkbox"/>	Box No. II	Priority	<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input type="checkbox"/>	Box No. IV	Lack of unity of invention	<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	<input type="checkbox"/>	Box No. VI	Certain documents cited	<input type="checkbox"/>	Box No. VII	Certain defects in the international application	<input type="checkbox"/>	Box No. VIII	Certain observations on the international application
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Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/JP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.
PCT/JP2004/012834

Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:

 - international search (Rule 12.3 and 23.1(b))
 - publication of the international application (Rule 12.4)
 - international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the **elements** of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

the international application as originally filed/furnished
 the description:
 pages 1-7 _____ as originally filed/furnished
 pages* _____ received by this Authority on _____
 pages* _____ received by this Authority on _____
 the claims:
 nos. 1-5 _____ as originally filed/furnished
 nos.* _____ as amended (together with any statement) under Article 19
 nos.* _____ received by this Authority on _____
 nos.* _____ received by this Authority on _____
 the drawings:
 sheets 1-10 _____ as originally filed/furnished
 sheets* _____ received by this Authority on _____
 sheets* _____ received by this Authority on _____
 a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. The amendments have resulted in the cancellation of:

the description, pages _____
 the claims, nos. _____
 the drawings, sheets/figs _____
 the sequence listing (*specify*): _____
 any table(s) related to sequence listing (*specify*): _____
4. This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

the description, pages _____
 the claims, nos. 1 _____
 the drawings, sheets/figs _____
 the sequence listing (*specify*): _____
 any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

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Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	1–5	YES
	Claims		NO
Inventive step (IS)	Claims		YES
	Claims	1–5	NO
Industrial applicability (IA)	Claims	1–5	YES
	Claims		NO

2. Citations and explanations (Rule 70.7)

Document 1: Shigeru NAKAJIMA et al., "Tei Energy Sesshusha ni Kansatsu Sareta Histidine Kōgan'yu Tanpakushitsu Sesshu ni yoru Sesshoku Yokusei," Journal of the Japanese Society of Nutrition and Food Science, 2000, Vol. 53, No. 5, pages 207 to 214

Document 2: Ikuko TAKEUCHI et al., Report of Toyo Junior College of Food Technology and the Toyo Institute of Food Technology, "Magurorui Kanzume-chu no Kihatsusei Ganryu Kagobutsu narabi ni Yuri Amino Acids Sosei ni Tsuite," 1985, Vol. 16, pages 37 to 44

Claims 1 to 5

Document 1 cited in the international search report indicates that histidine, which is abundant in proteins from bonito and tuna, exhibits an anti-obesity action (refer to page 207, lower left column, line 6 to the 3rd line from the bottom), and bonito meat is known to have a high histidine content, as is disclosed in document 2 cited in the international search report. Such being the case, it would have been easy for a person skilled in the art to conceive of using a bonito extract as a base

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITYInternational application No.
PCT/JP2004/012834**Box No. V** **Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

material for a processed diet food product. At that time, a person skilled in the art could eliminate the odor of the bonito extract and could concentrate the bonito extract, as appropriate according to necessity.

Consequently, the inventions set forth in claims 1 to 5 do not involve an inventive step.

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Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of:

Box I.4

The amendment that amends claim 1 so as to read “...reduces only body fat while maintaining body proteins in animals (including humans)...” is considered to add a new feature.

In particular, the description of the present application as originally filed indicates that the invention set forth in the present application (i.e., the raw material for a processed diet food product) was confirmed to exhibit a fat-burning effect, and also indicates that there was no significant difference in body weight regardless of food intake or the degree to which fat intake was reduced, which suggests that said raw material for a processed diet food product also functions to increase the mass of body structures other than fat-based structures (e.g., muscles, bone and the like). As a result, the description of the present application as originally filed cannot be considered to indicate that [the raw material for a processed diet food product] “reduces only body fat while maintaining body proteins.”